

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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AARON SLEDGE,

Plaintiff,

v.

CHARLES DANIELS, *et al.*,

Defendants.

Case No. 3:23-cv-00140-ART-CLB

ORDER

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1.) Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter. The Court entered a screening order on December 20, 2023. (ECF No. 3.) The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 3, 6.) The parties did not reach a settlement in mediation. (ECF No. 7.)

Petitioner has also filed a motion for appointment of counsel. (ECF No. 8.) A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil-rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The statute that governs this type of litigation, 28 U.S.C. § 1915(e)(1), provides that “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the

1 complexity of the legal issues involved.” *Id.* “Neither of these considerations is dispositive
2 and instead must be viewed together.” *Id.*

3 Here, Sledge asks for counsel because he is in segregation and has limited access
4 to the law library. (ECF No. 8.) The Court does not find exceptional circumstances at this
5 stage of the litigation. The Court denies the motion to appoint counsel without prejudice.

6 For the foregoing reasons, IT IS ORDERED that:

7 1. Plaintiff’s application to proceed *in forma pauperis* (**ECF No. 1**) is **GRANTED**.
8 Plaintiff will not be required to pay an initial installment of the filing fee. In the event that
9 this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. §
10 1915(b)(2).

11 2. The movant herein is permitted to maintain this action to conclusion without the
12 necessity of prepayment of any additional fees or costs or the giving of security therefor.
13 This order granting leave to proceed *in forma pauperis* will not extend to the issuance
14 and/or service of subpoenas at government expense.

15 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections must
16 pay to the Clerk of the United States District Court, District of Nevada, 20% of the
17 preceding month’s deposits to Plaintiff’s account (Aaron Sledge, #93404), in the months
18 that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this
19 action. The Clerk of the Court is directed to **SEND** a copy of this order to the Finance
20 Division of the Clerk’s Office and to **SEND** a copy of this order to the attention of the Chief
21 of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011, Carson
22 City, NV 89702.

23 4. The Clerk of the Court is directed to electronically **SERVE** a copy of this order
24 and a copy of Plaintiff’s complaint (ECF No. 4) on the Office of the Attorney General of
25 the State of Nevada by adding the Attorney General of the State of Nevada to the docket
26 sheet. This does not indicate acceptance of service.

27 5. Service must be perfected within 90 days from the date of this order pursuant to
28 Fed. R. Civ. P. 4(m).

1 6. Subject to the findings of the screening order (ECF No. 3), within 21 days of the
2 date of entry of this order, the Attorney General's Office must file a notice advising the
3 Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the
4 names of the defendants for whom it does not accept service, and (c) the names of the
5 defendants for whom it is filing the last-known-address information under seal. As to any
6 of the named defendants for whom the Attorney General's Office cannot accept service,
7 the Office must file, under seal, but must not serve the inmate Plaintiff the last known
8 address(es) of those defendant(s) for whom it has such information. If the last known
9 address of the defendant(s) is a post office box, the Attorney General's Office must
10 attempt to obtain and provide the last known physical address(es).

11 7. If service cannot be accepted for any of the named defendant(s), Plaintiff must
12 file a motion identifying the unserved defendant(s), requesting issuance of a summons,
13 and specifying a full name and address for the defendant(s). For the defendant(s) as to
14 which the Attorney General has not provided last-known-address information, Plaintiff
15 must provide the full name and address for the defendant(s).

16 8. If the Attorney General accepts service of process for any named defendant(s),
17 such defendant(s) must file and serve an answer or other response to the complaint (ECF
18 No. 4) within 60 days from the date of this order.

19 9. Plaintiff must serve upon defendant(s) or, if an appearance has been entered
20 by counsel, upon their attorney(s), a copy of every pleading, motion or other document
21 submitted for consideration by the Court. If Plaintiff electronically files a document with
22 the Court's electronic-filing system, no certificate of service is required. Fed. R. Civ. P.
23 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff mails the
24 document to the Court, Plaintiff must include with the original document submitted for
25 filing a certificate stating the date that a true and correct copy of the document was mailed
26 to the defendants or counsel for the defendants. If counsel has entered a notice of
27 appearance, Plaintiff must direct service to the individual attorney named in the notice of
28 appearance, at the physical or electronic address stated therein. The Court may disregard

1 any document received by a district judge or magistrate judge which has not been filed
2 with the Clerk, and any document received by a district judge, magistrate judge, or the
3 Clerk which fails to include a certificate showing proper service when required.

4 10. This case is no longer stayed.

5 11. The motion for appointment of counsel (**ECF No. 8**) is **DENIED** without
6 prejudice.

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8 DATED THIS 18th day of March 2024.

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11 CARLA L. BALDWIN
12 UNITED STATES MAGISTRATE JUDGE
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